

the health plan in which a physician participates in place of personal liability on the physician in order to achieve improved quality of care, reductions in defensive medical practices, and better risk management.

(7) **PRACTICE GUIDELINES.**—The term “practice guidelines” means guidelines established by the Agency for Health Care Policy and Research pursuant to the Public Health Service Act or this Act.

(c) **APPLICATIONS BY STATES.**—

(1) **IN GENERAL.**—Each State desiring to establish a malpractice reform demonstration project shall submit an application to the Secretary at such time and in such manner as the Secretary shall require.

(2) **CONTENTS OF APPLICATION.**—An application under paragraph (1) shall include—

(A) an identification of the State agency or agencies that will administer the demonstration project and be the grant recipient of funds for the State;

(B) a description of the manner in which funds granted to a State will be expended and a description of fiscal control, accounting, and audit procedures to ensure the proper dispersal of and accounting for funds received under this section; and

(C) such other information as the Secretary determines appropriate.

(3) **CONSIDERATION OF APPLICATIONS.**—In reviewing all applications received from States desiring to establish malpractice demonstration projects under paragraph (1), the Secretary shall consider—

(A) data regarding medical malpractice and malpractice litigation patterns in each State;

(B) the contributions that any demonstration project will make toward reducing malpractice and costs associated with health care injuries;

(C) diversity among the populations served by the systems;

(D) geographic distribution; and

(E) such other criteria as the Secretary determines appropriate.

(d) **EVALUATION AND REPORTS.**—

(1) **BY THE STATES.**—Each State receiving a grant under this section shall conduct ongoing evaluations of the effectiveness of any demonstration project established in such State and shall submit an annual report to the Secretary concerning the results of such evaluations at such times and in such manner as the Secretary shall require.

(2) **BY THE SECRETARY.**—The Secretary shall submit an annual report to Congress concerning the fairness and effectiveness of the demonstration projects conducted under this section. Such report shall analyze the reports received by the Secretary under paragraph (1).

(e) **FUNDING.**—

(1) **IN GENERAL.**—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) **LIMITATIONS ON EXPENDITURES.**—

(A) **ADMINISTRATIVE EXPENSES.**—Not more than 10 percent of the amount of each grant awarded to a State under this section may be used for administrative expenses.

(B) **WAIVER OF COST LIMITATIONS.**—The limitation under subparagraph (A) may be waived as determined appropriate by the Secretary.

(f) **ELIGIBILITY FOR NO-FAULT DEMONSTRATION.**—A State is eligible to receive a no-fault liability demonstration grant if the application of the State under subsection (c) includes—

(1) an identification of each qualified health care organization selected by the State to participate in the system, including—

(A) the location of each organization;

(B) the number of patients generally served by each organization;

(C) the types of patients generally served by each organization;

(D) an analysis of any characteristics of each organization which makes such organization appropriate for participation in the system;

(E) whether the organization is self-insured for malpractice liability; and

(F) such other information as the Secretary determines appropriate;

(2) an identification of each qualified insurer selected by the State to participate in the system, including—

(A) a schedule of the malpractice insurance premiums generally charged by each insurer under the common law tort liability system; and

(B) such other information as the Secretary determines appropriate;

(3) a description of the procedure under which qualified health care organizations and insurers elect to participate in the system;

(4) a description of the system established by the State to assure compliance with the requirements of this section by each qualified health care organization and insurer; and

(5) a description of procedures for the preparation and submission to the State of an annual report by each qualified health care organization and qualified insurer participating in a system that shall include—

(A) a description of activities conducted under the system during the year; and

(B) the extent to which the system exceeded or failed to meet relevant performance standards including compensation for and deterrence of medical adverse events.

(g) **ELIGIBILITY FOR ENTERPRISE LIABILITY DEMONSTRATION.**—A State is eligible to receive an enterprise liability demonstration grant if the State—

(1) has entered into an agreement with a health plan (other than a fee-for-service plan) operating in the State under which the plans assumes legal liability with respect to any medical malpractice claim arising from the provision of (or failure to provide) services under the plan by any physician participating in the plan; and

(2) has provided that, under the law of the State, a physician participating in a plan that has entered into an agreement with the State under paragraph (1) may not be liable in damages or otherwise for such a claim and the plan may not require such physician to indemnify the plan for any such liability.

(h) **ELIGIBILITY FOR PRACTICE GUIDELINES DEMONSTRATION.**—A State is eligible to receive a practice guidelines demonstration grant if the law of the State provides that in the resolution of any medical malpractice action, compliance or non-compliance with an appropriate practice guideline shall be admissible at trial as a rebuttable presumption regarding medical negligence.

Mr. KENNEDY. Mr. President, at an appropriate time on Monday, I intend to offer two second-degree amendments to the McConnell amendment. I have already described them briefly; one would clarify that this bill does not preempt State law, while the other would be a complete substitute consisting of the malpractice subtitle of the Health Care Reform Act favorably reported by the Labor Committee last year.

I will file them at this time so that they are available for review by the membership.

SNOWE AMENDMENT NO. 608

Ms. SNOWE proposed an amendment to amendment No. 603 proposed by Mr.

MCCONNELL to the amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

On p. 14, line 22, insert:

In section 15 of the amendment, strike subsection (e) and insert the following new subsection:

(e) **LIMITATION ON AMOUNT.**—

(1) **IN GENERAL.**—The amount of punitive damages that may be awarded to a claimant in a health care liability action that is subject to this title shall not exceed 2 times the sum of—

(A) the amount awarded to the claimant for economic loss; and

(B) the amount awarded to the claimant for noneconomic loss.

(2) **APPLICATION BY COURT.**—This subsection shall be applied by the court and the application of this subsection shall not be disclosed to the jury.

KYL AMENDMENT NO. 609

Mr. KYL proposed an amendment to amendment No. 603 proposed by Mr. MCCONNELL to amendment No. 596 proposed by Mr. GORTON to the bill, H.R. 956, supra; as follows:

SEC. . FAIR COMPENSATION FOR NONECONOMIC LOSSES AND PUNITIVE DAMAGES.

(a) **FULL COMPENSATION FOR NONECONOMIC LOSSES.**—Notwithstanding any other provision of this Act, an attorney who represents, on a contingency fee basis, a claimant in a civil action in a Federal or State court may not charge, demand, receive, or collect for services rendered in connection with such action on any amount recovered by judgment or settlement under such action for noneconomic losses in excess of 25 percent of the first \$250,000 (or portion thereof) recovered, based on after-tax recovery.

(b) **ATTORNEY FEES FOR PUNITIVE DAMAGES.**—With respect to any award or settlement for punitive damages, an attorney's fee, if any, received by an attorney who represents, on a contingency fee basis, a claimant in a civil action in a Federal or State court shall be established by the court based on the work performed by the attorney, and shall be ethical and reasonable. It shall be a rebuttable presumption that an ethical and reasonable attorney's fee in such an action is 25 percent of such award for punitive damages.

(c) **CONTINGENCY FEE DEFINED.**—As used in this section, the term “contingency fee” means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of losses or damages, whether through judgment or settlement.

COLORADO RIVER BASIN SALINITY CONTROL AMENDMENTS ACT

DOMENICI AMENDMENT NO. 610

Mr. KYL (for Mr. DOMENICI) proposed an amendment to the bill (S. 523) to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes; as follows:

On page 7, strike “such paragraph” on line 1, and insert the following: “such paragraph.

Notwithstanding subsection (b), the Secretary may implement the program under paragraph 202(a)(6) only to the extent and in such amounts as are provided in advance in appropriations Acts."

NOTICE OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROTH. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Government Affairs, will hold hearings on the Navy T-AO-187 *Kaiser* class oiler contract.

This hearing will take place on Tuesday, May 2, 1995 at 10 a.m. and on Thursday, May 4 at 10 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Harold Damelin of the subcommittee staff at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, April 27, 1995, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to approve the creation and jurisdiction of a new subcommittee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, April 27, 1995, for purposes of conducting a Full Committee hearing which is scheduled to begin at 9:45 a.m. The purpose of this hearing is to consider S. 537 and H.R. 402, to amend the Alaska Native Claims Settlement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet on Thursday, April 27, 1995, beginning at 9:30 a.m. in room SD-215, to conduct our final hearing on welfare reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 27, 1995, at 10 a.m. to hold a hearing on The Future of NATO.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Commit-

tee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, April 27, 1995 at 8 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, April 27, 1995 at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to hold a hearing on Thursday, April 27, 1995, at 9:30 a.m. The focus of the hearing is the Small Business Administration's 7(a) Business Loan Program.

For further information, please contact Paul Cooksey at 224-5175.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Education of the Committee on Labor and Human Resources be authorized to meet for a hearing on Overview of Vocational Education, during the session of the Senate on Thursday, April 27, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING OPPORTUNITY AND COMMUNITY DEVELOPMENT

Mr. GORTON. Mr. President, I ask unanimous consent that Subcommittee on Housing Opportunity and Community Development, of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 27, 1995, at 9:30 a.m., to conduct a hearing on the Reinvention of HUD and Redirection of Housing Policy.

The Presiding Officer. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 9 a.m. on Thursday, April 27, 1995, in open session, to receive testimony on the Near and Long Term Readiness of the Armed Forces as It Relates to the Future Years Defense Plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, WASTE CONTROL AND RISK ASSESSMENT

Mr. GORTON. Mr. President. I ask unanimous consent that the Subcommittee on Superfund, Waste Control, and Risk Assessment be granted permission to conduct an oversight hearing Thursday, April 27, 9 a.m. regarding the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PRESIDENTIAL SERVICE AWARD FOR SAFEHAVEN

• Mr. HATFIELD. Mr. President, today, Ms. Nellie Bradwell and Ms. Joyce Adams are in Washington, DC, on behalf of SAFEHAVEN of Portland, OR, to accept a 1995 Presidential Service Award which will be presented by President Clinton. I would like to take a moment of the Senate's time to congratulate the volunteers of SAFEHAVEN, a latchkey program serving at-risk youth ages 5 to 12 in Portland's inner-city.

The Points of Light Foundation, which selects annual award winners, is dedicated to promoting voluntarism, increasing the activity of local volunteer centers and assuring the public knows that volunteers are key components of a healthy and happy community. This year, 18 individuals and organizations have been selected to receive the prestigious President's Service Award out of over 3,000 nominations.

Ms. Bradwell, Ms. Adams and all of SAFEHAVEN's volunteers provide a safe and nurturing environment for at-risk youth after school and on Saturdays. The area they serve in the inner-northeast part of Portland has one of the city's highest juvenile crime rates, and SAFEHAVEN is attempting to make a positive change. While helping to meet the material needs of its participants, their program offers recreational activities, educational development and church services.

SAFEHAVEN is already making plans to continue their services through participants' high school years and provide a summer youth camp. I am deeply grateful to all of SAFEHAVEN's volunteers. Serving as teachers, mentors and friends they are having a positive impact on Portland's youth and community; an impact which is sure to be lasting.●

GAMBLING

• Mr. SIMON. Mr. President, the Washington Monthly recently, in an editorial, had a column by Roman Genn and a comment about gambling in the United States and its spread.

This has been a growing phenomenon in our country, and we have not examined what its impact will be on the future of our country.

The article points out some of the problems.

I introduced a bill in the last session of Congress, and I have introduced a bill also in this session to set up a commission to look at this matter.

Obviously, we are not going to eliminate legal gambling in our society. But